vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3074 OF 1997

1. Konkan Patbandhare Mandal
Kuwarbao, Dist.:Ratnagiri

2. State of Maharashtra ... Petitioners

V/s.

1. Shri Sanjay Abaji Jadhav
At & Post Kokare, Tal.:Chiplun
Dist.:Ratnagiri

2. Shri P.W. Bhuyar
Presiding Officer, Labour Court,
Kolhapur ... Respondent

Mr.D.A. Patil, AGP, for Petitioner

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **NOVEMBER 29, 2006**

ORAL JUDGMENT:

. The workman i.e., respondent No.1 herein, was employed as a Chowkidar on daily wages from 16.9.1985 in the Irrigation Department. According to the Petitioners, the workman has abstained from work from 1.5.1986 to 3.8.1986 and from 21.11.1986 to 8.1.1997. He was continued in employment on a temporary basis on daily wages. The Petitioners contend that the Respondent workman stopped attending duty from 21.1.1989. After a period of 3.1/2 years, he applied to the Petitioners for employment. It appears that the Petitioners had treated the respondent's absence as an

abandonment of service. A service certificate was also issued to the Respondent. The respondent approached the Assistant Labour Commissioner for redressal of his grievance regarding his illegal termination from service. A reference was made on 2.8.1994 for adjudication of the dispute before the Labour Court, Kolhapur. Pleadings were filed by the parties and evidence was led. On 28.2.1997, the Labour Court directed the Petitioners to reinstate the respondent with continuity of services but without backwages. Aggrieved by his order, the Petitioners filed the present petition. While admitting the Petition, this Court had granted interim relief staying the implementation and execution of the award. However, it was made clear that if any job was available to the Respondent, he would be given preference for employment.

2. On a perusal of the award of the Labour Court, it is obvious that the Labour Court has accepted the contentions of the workman which were based on the evidence before it. The Labour Court has held that despite completion of 240 days in service, the Petitioners had illegally terminated the services of the workman. The Labour Court did not accept the contention of the Petitioners that the Respondent had abandoned his services and therefore, held that there ought to have

been compliance with section 25F of the Industrial Disputes Act, prior to the termination of the services. The Labour Court, while doing so, has held that the respondent did not approach the Court immediately after his services were terminated but decided to seek redressal only after 3.1/2 years. The Labour Court has thus rightly rejected the contention of the employer that there was any abandonment of service.

3. In my view, the award of the Labour Court need not be interfered with. If the Petitioner was serious about the contention that there was an abandonment of service, it would have either initiated disciplinary proceedings against the workman or in any event led evidence before the Labour Court to prove that there was abandonment of service. The Petitioners have not led any evidence at all before the Labour Court. In such circumstances, there is no need to interfere with the impugned award. Petition dismissed.